



U.S. Department of the Interior
Office of Inspector General

AUDIT REPORT

OPERATIONAL FUNDING STATUS,
DEPARTMENT OF EDUCATION,
GOVERNMENT OF GUAM

REPORT NO. 98-I-643
AUGUST 1998



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

AUG 28 1998

Ms. Gloria Nelson
Chairperson
Interim Board of Education
P.O. Box DE
Agana, Guam 96932

Subject: Audit Report on Operational Funding Status. Department of Education,
Government of Guam (No. 98-I-643)

Dear Ms. Nelson:

This report is the first in a series of reports on various operations of the Department of Education, Government of Guam. It presents the results of our review of Education's operational funding status as of April 30, 1997. The objective of our review was to determine whether the Departments of Education and Administration complied with applicable laws and budgetary and accounting procedures relating to the allocation and transfer of appropriated and encumbered funds upon the change of the Department of Education's primary funding source from General Fund appropriations to the Gross Receipts Tax during April and May 1997. The scope of the audit included the status of Education funds as of April 30, 1997, and related financial transactions and Legislative and Executive branch actions affecting the funds that occurred during the period of May 1997 to February 1998.

We concluded that the Government of Guam needed to make improvements in the areas of financial legislation and financial management. Specifically, we found that the Department of Education's financing of routine operations was disrupted in May 1997 because the Department of Administration transferred \$5.6 million from two Education bank accounts to a General Fund bank account without Education's knowledge or approval and, as of February 28, 1998, had not returned \$4 million in unused funds or provided Education with an accounting of the expended funds. Administration made these transfers as part of its effort to comply with Public Law 23-17 to change Education's main operations funding source. However, the transfers were not in accordance with the intent of Public Law 24-17 or the language of Public Law 23-34, the latter of which was subsequently enacted to require that existing accounts related to Education be transferred to the School Operations Fund.

These conditions occurred because (1) the Public Laws did not identify which funds Education should retain and did not provide for a transition period to implement the mandated changes, (2) the Departments of Administration and Education did not coordinate

effectively during the transition process, and (3) Administration did not have adequate written procedures for closing bank accounts. We determined that, as a result, Education did not have access to more than \$4 million in previously available funds and was unable to determine exactly what financial resources would be available for fiscal year 1997 operations. Additionally, Education had to pay \$2.8 million of the expenses incurred prior to April 29, 1997, from its gross receipts tax funding source.

To correct the conditions noted, we recommended that (1) the Legislature revise the Standing Rules to ensure that any future legislation which changes the method of funding a government entity includes language specifying the disposition of existing funding and requires a transition period to ensure proper accounting of the transfer, resolve any uncertainties, and address any legal issues related to the funding changes; (2) the Governor of Guam require the Director of Administration to prepare written procedures to ensure that the Treasurer of Guam does not close bank accounts or transfer bank account balances until affected agencies determine how to clear all legal outstanding transactions; and (3) the Board of Education require the Director of Education to make a formal written request to the Department of Administration and the Bureau of Budget and Management Research for the return of the unused \$4 million, an accounting of the \$1.6 million used by Administration to pay Education expenses, and access to the related bank records for April and May 1997.

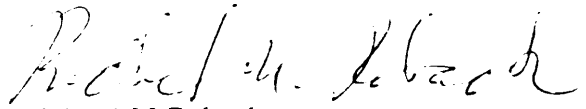
In the July 24, 1998, response (Appendix 3) to our draft report from the Speaker of the Guam Legislature, the Legislature concurred with Recommendation 1 and indicated that corrective actions would be taken. The July 23, 1998, response (Appendix 4) from the Governor of Guam included a July 20, 1998, response from the Department of Administration, in which Administration concurred with Recommendation 2 and indicated that corrective action would be taken. In the July 23, 1998, response (Appendix 5) from you, the Board and the Department of Education expressed general concurrence with the report but disagreed with certain statements concerning the need for better coordination with Administration to resolve the reported funding issues. Education did not specifically address Recommendation 3. Based on the responses, we consider Recommendations 1 and 2 resolved but not implemented and Recommendation 3 unresolved. Accordingly, the unimplemented recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation, and the Board of Education is requested to provide a response to Recommendation 3, which is unresolved (see Appendix 6).

The Inspector General Act, Public Law 95-452, Section 5(a)(3), as amended, requires semiannual reporting to the U.S. Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

In view of the above, please provide a response, as required by Public Law 97-357, to this report by September 30, 1998. The response should be addressed to our Pacific Office, 415 Chalan San Antonio, Baltej Pavilion, Suite 306, Tamuning, Guam 96911. The response should provide the information requested in Appendix 6.

We appreciate the assistance of management and staff of the Department of Education in the conduct of our audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard N. Reback". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Richard N. Reback
Acting Inspector General



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

AUG 28 1998

The Honorable Carl T.C. Gutierrez
Governor of Guam
Office of the Governor
Agana, Guam 969 10

Subject: Audit Report on Operational Funding Status, Department of Education,
Government of Guam (No. 98-I-643)

Dear Governor Gutierrez:

This report is the first in a series of reports on various operations of the Department of Education, Government of Guam. It presents the results of our review of Education's operational funding status as of April 30, 1997. The objective of our review was to determine whether the Departments of Education and Administration complied with applicable laws and budgetary and accounting procedures relating to the allocation and transfer of appropriated and encumbered funds upon the change of the Department of Education's primary funding source from General Fund appropriations to the Gross Receipts Tax during April and May 1997. The scope of the audit included the status of Education funds as of April 30, 1997, and related financial transactions and Legislative and Executive branch actions affecting the funds that occurred during the period of May 1997 to February 1998.

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These conditions occurred because (1) the Public Laws did not identify which funds Education should retain and did not provide for a transition period to implement the mandated changes, (2) the Departments of Administration and Education did not coordinate effectively during the transition process, and (3) Administration did not have adequate

written procedures for closing bank accounts. We determined that, as a result, Education did not have access to more than \$4 million in previously available funds and was unable to determine exactly what financial resources would be available for fiscal year 1997 operations. Additionally, Education had to pay \$2.8 million of the expenses incurred prior to April 29, 1997, from its gross receipts tax funding source.

To correct the conditions noted, we recommended that (1) the Legislature revise the Standing Rules to ensure that any future legislation which changes the method of funding a government entity includes language specifying the disposition of existing funding and requires a transition period to ensure proper accounting of the transfer, resolve any uncertainties, and address any legal issues related to the funding changes; (2) you, as the Governor of Guam, require the Director of Administration to prepare written procedures to ensure that the Treasurer of Guam does not close bank accounts or transfer bank account balances until affected agencies determine how to clear all legal outstanding transactions; and (3) the Board of Education require the Director of Education to make a formal written request to the Department of Administration and the Bureau of Budget and Management Research for the return of the unused \$4 million, an accounting of the \$1.6 million used by Administration to pay Education expenses, and access to the related bank records for April and May 1997.

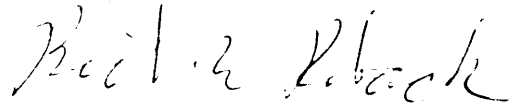
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We appreciate the assistance of the Legislature and the management and staff of the Department of Administration, the Department of Education, and the Bureau of Budget and Management Research in the conduct of our audit.

Sincerely,

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Richard N. Reback
Acting Inspector General



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

AUG 28 1998

The Honorable Antonio R. Unpingco
Speaker, Twenty-Fourth Guam Legislature
155 Hesler Street
Agana, Guam 96910

Subject: Audit Report on Operational Funding Status. Department of Education,
Government of Guam (No. 98-I-643)

Dear Speaker Unpingco:

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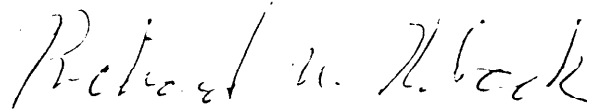
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We appreciate the assistance of the Guam Legislature in the conduct of our audit.

Sincerely,

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Richard N. Reback
Acting Inspector General

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INTRODUCTION

BACKGROUND

The original (1950) version of the Organic Act of Guam (Title 48, Section 1421g(b), of the US. Code Annotated) stated, “The Governor [of Guam] shall provide an adequate public educational system of Guam, and to that end shall establish, maintain, and operate public schools according to the laws of Guam.” The Organic Act also provided that the Governor of Guam would appoint the members of the Territorial Board of Education, with the advice and consent of the Legislature. However, in 1986, the C.S. Congress amended Section 1421g(b) by replacing the word “Governor” with the term “Government of Guam,” thereby giving the Government of Guam the option of establishing an educational system outside the direct control of the Governor.

On November 19, 1993, the Guam Legislature overrode the Governor’s veto and enacted Public Law No. 22-42, which repealed and enacted a new version of Title 17, Section 3 101, of the Guam Code Annotated, to establish the Department of Education within the Government of Guam. Section 3 102 of the new version states, “The Department [of Education] shall be administered through the Territorial Board of Education ... which shall be the governing and policy-making body of the Department.” Section 3 102(a) states that the Territorial Board will hire a Director and Deputy Director of Education. On September 19 and December 13, 1995, respectively, the Governor filed two lawsuits against the Board of Education, alleging that (1) Public Law 22-42 “nullified the Governor’s power to supervise and control the Department of Education” and (2) the contracts the Board of Education had executed with the Director and Deputy Director were “illegal employment agreements.” In October 1996, the Guam Superior Court upheld the law establishing the Board of Education and giving it the authority to issue contracts.

Prior to April 28, 1997, Education’s primary funding was provided by appropriations from the General Fund, and the Treasurer of Guam (within the Department of Administration) had effective control, as the only signatory authority, over all Department of Education bank accounts. Title 5, Sections 2 1111 and 22 101, of the Guam Code Annotated authorizes the Treasurer of Guam to administer monies belonging to the Government of Guam, and Title 5, Sections 4103, 4105, and 4109, of the Guam Code Annotated authorizes the Governor and the Bureau of Budget and Management Research to administer Executive Branch budgets and states that planned expenditures may be modified or withheld under certain conditions, such as when the level of revenue collections is lower than anticipated.

On April 28, 1997, Public Law 24-17 created the “School Operations Fund” and changed Education’s primary source of funding from General Fund appropriations to the Gross Receipts Tax. Under this law, 88 percent of the total monthly collections of gross receipts taxes are to be transferred to the Department of Education. Further, effective on May 21,

1997, Public Law 24-33 amended Title 11 of the Guam Code Annotated by adding Section 26208, which designated the Director of Education as the official responsible for receiving, accounting for, and disbursing all monies in the School Operations Fund.

On February 27, 1998, the Guam Legislature overrode the Governor's veto and passed Public Law No. 24-142, which divided the Board of Education into four elected "District Boards of Education" with four District Superintendents. In addition, a restructured Department of Education, with the Director appointed by the Governor, was created to provide guidance to and coordinate the activities of the Districts and to "serve as the state educational agency for purposes of Federal statutes, policies, grants, programs and regulations." Further, Public Law 24-142 provides for the existing school board to serve on an interim basis for a 1-year transition period and for the election, in November 1998, of the members of the four new District Boards of Education. The District Boards consist of six voting members selected by popular election, one voting member representing the high schools in the respective district, and one nonvoting member representing the respective teachers' union. The Boards also have the authority to increase the number of nonvoting members.

During fiscal year 1997, the Department of Education had total revenues of \$ 168.8 million (\$152.6 million from local sources and \$16.2 million from Federal sources) and total expenditures of \$167.2 million (\$150.6 million from local funds and \$16.6 million' from Federal funds). During the same fiscal year, Education had 3,792 employees and administered 36 schools with a total enrollment of 32,923 students.

OBJECTIVE AND SCOPE

The objective of our review was to determine whether the Departments of Education and Administration complied with applicable laws and budgetary and accounting procedures relating to the allocation and transfer of appropriated and encumbered funds upon the change of the primary funding source for Education during April and May 1997. The scope of audit included reviews of applicable laws and regulations and financial records through September 30, 1997, that reflected the results of the change in Education's primary funding source. We also interviewed Legislative and Executive branch officials regarding actions taken during the period of April 1997 through February 1998 that affected the status of Education's funding source. We visited the offices of the Legislature of Guam, the Department of Education, the Department of Administration (including the offices of the Controller and the Treasurer), and the Bureau of Budget and Management Research.

Our scope was limited because, according to Education's Controller, the Department's bank accounts had not been reconciled for at least 1 year prior to April 1997. Additionally,

¹Expenditures from Federal funds exceeded revenues from Federal sources because Education had carryover funds from fiscal year 1996 that were available for use during fiscal year 1997.

audited financial statements for the Department were not available for fiscal years 1995 and 1996.² However, Education did reconcile its new bank accounts (which were opened as a result of Public Laws 24- 17 and 24-34) for the period of May to September 1997 and has prepared draft financial statements for fiscal year 1997.

The audit was made, as applicable, in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances.

As part of the audit, we evaluated the system of internal controls related to the transition of the funding source of the Department of Education to the extent that we considered necessary to accomplish the audit objective. We identified internal control weaknesses, which are discussed in the Finding and Recommendations section of this report. Our recommendations, if implemented, should improve the internal controls in this area.

PRIOR AUDIT COVERAGE

During the past 5 years, neither the U.S. General Accounting Office nor the Office of Inspector General has issued any audit reports concerning the change of primary funding source for the Department of Education. Additionally, although an independent public accounting firm issued single audit reports on the Government of Guam for fiscal years 1990 through 1996, separate single audit reports and financial statements were not available for the Department of Education.

²Although the Department of Education's financial transactions for fiscal years 1995 and 1996 were audited as part of the overall Government of Guam annual financial audits, the only details on Education's finances included in the overall financial statements were budgeted and actual revenues and expenditures. Balance sheets were not available for the Department of Education as of the end of fiscal year 1996. As a result, we could not accurately determine the beginning balances of outstanding payables at the start of fiscal year 1997 that may have had an impact on outstanding encumbrances as of April 28, 1997.

FINDING AND RECOMMENDATIONS

OPERATIONAL FINANCING

The Department of Education's financing of routine operations was disrupted in May 1997 because the Department of Administration transferred \$5.6 million from two Education bank accounts to the General Fund and then closed these accounts without Education's knowledge or approval. Also, as of February 28, 1998, Administration had not returned the unused portion of the funds or provided Education with an accounting of the use of the funds. Administration officials said that they transferred the \$5.6 million to a General Fund bank account as part of Administration's efforts to comply with Public Law 24-17. However, we believe that these transfers were not in accordance with the intent of Public Law 24-17 and the subsequent Public Law 24-34. The transfers occurred because (1) neither public law identified which funds Education should retain after a change in its source of funding and did not provide for a transition period to implement the mandated change, (2) the Departments of Administration and Education did not cooperate effectively in the transition process, and (3) Administration did not have adequate written procedures for closing bank accounts. As a result, Education did not have access to \$4 million (after payment by Administration of \$1.6 million in preexisting Education expenses) and was unable to determine the exact amount of financial resources available for operating expenses for the remainder of fiscal year 1997. Additionally, Education had to pay, from Gross Receipt Tax revenues rather than from General Fund appropriations, expenses of \$2.8 million that were incurred prior to April 29, 1997.

Transfer of Funds

Public Law 24-17 was enacted on April 28, 1997, with the Guam Legislature's override of the Governor's veto, to provide Education with a funding source separate from the General Fund. Although Public Law 24-17 created the School Operations Fund, it did not address the disposition of the existing unexpended balances of General Fund monies appropriated for educational purposes and deposited into Education's bank accounts. The only reference in Public Law 24-17 to the appropriated funding for Education was the statement, "Upon the effective date of this Section, all previous appropriations to the Department of Education for fiscal year 1997 are repealed." A Guam Senator told us that, to clarify this issue, on May 6, 1997, the Legislature passed Public Law 24-34 (enacted on May 21, 1997, without the Governor's signature). Section 9(b) of Public Law 24-33 stated, "All existing Department of Administration accounts for the Department of Education shall be deposited or transferred to the School Operations Fund for use by the Department of Education in fiscal year 1997." However, between the date of passage of Public Law 24-34 (May 6, 1997) and the date of its enactment (May 21, 1997), the Department of Administration had transferred \$5.6 million (see Appendix 2) from Education's bank accounts to the General Fund.

Two of the main Legislative sponsors of Public Law 24-17 told us that the law was intended to ensure that Education had adequate funding through the effective date of the law (April 28, 1997) by allowing Education to use funds provided from General Fund appropriations for that period. However, Public Law 24-17 did not (1) contain language addressing what funds should be retained or transferred or (2) provide for a transition period (such as 60 days) to address questions and resolve differences of opinion instead of, in effect, requiring immediate implementation. The Standing Rules of the 24th Guam Legislature did not include requirements to address such issues in draft legislation. In addition, although Public Law 24-34 included some guidance on what the Legislature intended with the existing appropriated funds, this law did not prevent the transfers because they had occurred before the May 21, 1997, effective date of the law.

Interagency Coordination. The Departments of Administration and Education did not adequately coordinate financial information to identify expenditures that occurred before April 29, 1997, and that should have been paid from General Fund appropriations. According to Administration's Controller, Administration could not determine how much of the \$5.6 million balance in Education's bank accounts was needed because Education had not provided Administration with a complete listing of outstanding encumbrances for the period prior to April 29, 1997. The Controller told us that without the financial information and because Public Law 24-17 did not provide clear guidance, Administration had to act to control the funds in Education's bank accounts to ensure that the General Fund had sufficient monies to pay all outstanding checks issued on these accounts.

Procedures for Closing Accounts. Administration did not have written policies or procedures that provided guidance on how and when to transfer funds and close Government of Guam bank accounts. In our opinion, since Administration had the sole signature authority over Education's bank accounts, Administration did not need to close Education's two bank accounts before all outstanding checks had cleared or to immediately transfer the \$5.6 million to a General Fund bank account. Administration's Controller told us that, in his opinion, there was no urgency to close the Education bank accounts and that, in retrospect, the bank accounts probably should have remained open until all outstanding checks had cleared. As a result, Administration's accounting and management personnel unnecessarily expended at least 130 hours on work related to resolving accounting and banking problems that occurred because the accounts were closed.

Accounting for Transferred Funds

Title 5, Section 7102, of the Guam Code Annotated requires Executive Branch employees to manage public money with "prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity ... would use." In addition, Title 5, Section 22203, of the Code requires the Director of Administration to "determine fairly ...

[the] results of financial operations; ... [and] provide a basis for financial and administrative control. ..." Further, Public Law 24-34, Section 9(b) stated, "All existing Department of Administration accounts for the Department of Education shall be deposited or transferred to the School Operations Fund for use by the Department of Education in fiscal year 1997."

Reductions to Appropriations. Despite these requirements, on May 7, 1997, the Acting Director of the Bureau of Budget and Management Research, based on information provided by Administration and without contacting Education to determine what funds were needed, withdrew \$4.9 million in allotments previously provided to Education. The form "Request for Appropriation and Allotment Modification," which Budget and Management Research prepared to effect the reduction in allotments, stated that the \$4.9 million was "unexpended by DOE [Department of Education]." A subsequent \$2.1 million increase to Education's allotments resulted in a net reduction by Budget and Management Research of about \$2.8 million. A Budget and Management Research official told us that, based on the policy of the Bureau of Budget and Management Research, the \$2.8 million could not be returned to Education once the fiscal year 1997 appropriation period ended. As a result, Education lost the use of this \$2.8 million during fiscal year 1997 (see Appendix 2).

Liquidation of Outstanding Checks. After the net reduction of \$2.8 million in the General Fund appropriations for Education, the remaining \$2.8 million (of the \$5.6 million that Administration had transferred from Education's bank accounts) was available for Administration to use in liquidating outstanding checks that were written against the accounts prior to April 29, 1997. However, as of September 30, 1997, Administration had paid only \$1.6 million to liquidate outstanding checks, and, as of the date of completion of our audit (February 28, 1998), Administration had not (1) returned the \$1.2 million unexpended balance to Education, (2) provided Education with an accounting report on the \$1.6 million used to pay Education expenses, and (3) provided Education the records (including bank statements and canceled checks) for Education's operations and payroll bank accounts for April and May 1997.

According to Administration's Controller, Education had not made a formal request for the return of the funds, an accounting of the funds, or the bank statements. The Controller stated, "The bank statements can be provided immediately and the balance of the funds would be provided once all checks have either cleared or become stale dated." Based on our review, we concluded that Education lost the use of \$4 million in General Fund appropriations (see Appendix 2), which consisted of (1) the net amount of \$2.8 million that Budget and Management Research reduced Education's appropriations and (2) the \$1.2 million in unexpended funds that Administration held after liquidating outstanding checks that had been issued against Education's bank accounts prior to April 29, 1997. Further, Education subsequently had to pay, from Gross Receipts Tax revenues, expenditures of an additional \$2.8 million that were incurred prior to April 29, 1997, and that would have been properly chargeable against the General Fund appropriations of \$4 million that were transferred from its bank accounts.

Recommendations

We recommend that:

1. The Speaker of the Guam Legislature propose that the Standing Rules be revised to ensure that any future legislation which changes the method of funding a government entity includes language that specifies the disposition of existing funding and requires a transition period to ensure that the transfer is properly accounted for, any uncertainties as to legislative intent are resolved, and legal issues related to the funding changes are addressed.
2. The Governor of Guam require the Director of the Department of Administration to prepare written procedures to ensure that the Treasurer of Guam does not close bank accounts or transfer funds in bank accounts until the affected agencies have had the opportunity to determine the best method for clearing all legal (outstanding) transactions.
3. The Board of Education require the Director of the Department of Education to make a formal written request to the Department of Administration and the Bureau of Budget and Management Research for the return of the unused balance of \$4 million from the \$5.6 million originally transferred from Education's bank accounts, an accounting of the \$1.6 million used by the Department of Administration to pay Education expenses, and the records for transactions in Education's bank accounts during April and May 1997.

Guam Legislature Response and Office of Inspector General Reply

In the July 23, 1998, response (Appendix 3) to the draft report from the Speaker of the Guam Legislature, the Legislature concurred with Recommendation 1 and indicated that corrective actions would be taken. Based on the response, we consider Recommendation 1 resolved but not implemented (see Appendix 6).

Governor of Guam Response and Office of Inspector General Reply

In the July 23, 1998, response (Appendix 4) to the draft report from the Governor of Guam, the Department of Administration concurred with Recommendation 2 and indicated that corrective action would be taken. Based on the response, we consider Recommendation 2 resolved but not implemented (see Appendix 6).

Although Recommendation 3 was not addressed to the Governor, the Department of Administration, in response to the draft report, stated that our report "fails to confirm whether or not actual expenditures of \$4 [million] was in fact incurred prior to the passage of Public Laws 24-17 and 24-34" and that, because the report references only \$2.8 million of actual expenditures incurred, "the amount of \$2.8 [million] is the only amount

reimbursable.” Therefore, Administration requested that we clarify the exact dollar amount of reimbursements owed the Department of Education.

Although our report stated that Education had incurred, prior to passage of the two public laws, at least \$2.8 million of expenses that it had to pay from revenues received after passage of the public laws, this information was provided to show the impact of the transfer of the funds from Education’s account. Our position on the return of the \$4 million (which is supported by our discussions with Legislature officials) is that the Legislature intended for Education to retain the total amount of funds appropriated to it whether or not Education incurred any expenditures relating to these funds prior to passage of the two public laws. Therefore, we believe that Education is entitled to reimbursement of \$4 million, as indicated in Recommendation 3.

Board of Education Response and Office of Inspector General Reply

In the July 23, 1998, response (Appendix 5) to the draft report from the Chairperson of the Board of Education, the Board and the Department of Education did not express concurrence or nonconcurrence with Recommendation 3. Therefore, the Board of Education is requested to reconsider its response to Recommendation 3, which is unresolved (see Appendix 6).

In a May 15, 1998, letter included with the response from the Chairperson of the Board of Education, the Director of Education stated that Education agreed with the general content of the audit but not with the statement in the report that Education “[was] not adequately coordinating financial information” with Administration. The Director included a copy of a May 29, 1997, letter in which he transmitted to Administration a listing of outstanding payables and encumbrances of Education as of April 1997. Education stated that it had “made an attempt to cooperate with the transition” of funding for its department.

The section of the finding “Interagency Cooperation” states, “According to Administration’s Controller, Administration could not determine how much of the \$5.6 million balance in Education’s bank accounts was needed because Education had not provided Administration with a complete listing of outstanding encumbrances for the period prior to April 29, 1997.” That statement is an accurate representation of statements made by Administration’s Controller at the time of the audit. Additionally, Administration officials stated that the listings of outstanding payables and encumbrances referred to in the Director of Education’s letter were not received (see May 22, 1998, letter from the Director, Department of Administration, in Appendix 4). Based on our review of the listings provided by Education, we noted that the documents included accounts payable totaling \$842,767 and outstanding purchase orders totaling \$1,094,552. However, we subsequently determined that the listings were incomplete because they did not include outstanding utility billings totaling \$1,997,320. As such, in our opinion, better interagency coordination would have diminished or avoided the funding problems discussed in the report.

CLASSIFICATION OF MONETARY AMOUNTS

<u>Finding Area</u>	<u>Funds To Be Put To Better Use*</u>
Operational Financing	\$4,009,331

*Amount represents local funds.

SUMMARY OF ADJUSTMENTS TO GENERAL FUND APPROPRIATIONS FOR THE DEPARTMENT OF EDUCATION

Description	Amounts	Item No.
Reductions to Education Appropriation Allotments:		
Appropriation Allotments as of May 1, 1997	\$83,211,164	1
May 7, 1997 Allotment Reduction	<u>(4,938,636)</u>	2
Interim Appropriation Allotment Amount	\$78,272,528	
Late May 1997 Allotment Reinstatement	<u>2,180,879</u>	
Final Appropriation Allotment Amount	<u><u>\$80,453,407</u></u>	3
Appropriation Allotments as of May 1, 1997 (See <i>Item 1</i>)	\$83,211,164	
Final Appropriation Allotment Amount (See <i>Item 3</i>)	<u>(80,453,407)</u>	
Net May 1997 Reduction to Appropriation Allotments	<u><u>\$2,757,757</u></u>	
Transfers From Education Bank Accounts:		
May 7, 1997 Transfer (Operations Account)	\$4,296,980	
May 7, 1997 Transfer (Payroll Account)	<u>631,656</u>	
Subtotal May 7, 1997 Transfers (See <i>Item 2</i>)	\$4,938,636	
May 14, 1997 Transfer (Operations Account)	38,937	
May 15, 1997 Transfer (Payroll Account)	<u>622,453</u>	
Total May 1997 Transfers from Education Accounts	<u><u>\$5,600,026</u></u>	
Status of Funds Transferred From Education:		
Total Transfers from Education Accounts (See <i>Item 5</i>)	\$5,600,026	
Net May 1997 Reduction to Appropriation Allotments (See <i>Item 4</i>)	<u>(2,757,757)</u>	
Amount Available for Education Expenses	\$2,842,269	
Education Bills Paid by Administration	<u>(1,590,695)</u>	
Unused/Unaccounted for Transfers	<u><u>\$1,251,574</u></u>	
Summary of Adjustments to General Fund Appropriations for Education:		
Net May 1997 Reduction to Appropriation Allotments (See <i>Item 4</i>)	\$2,757,757	
Unused/Unaccounted for Transfers (See <i>Item 6</i>)	<u>1,251,573</u>	
Total General Fund Appropriations Not Available to Education *	<u><u>\$4,009,331</u></u>	

* The Department of Education subsequently paid, from Gross Receipts Tax revenues, additional expenditures of \$2,803,257 that were incurred before April 29, 1997, and that would have been properly chargeable against this \$4,009,331 in General Fund appropriations



MINA' BENTE KUÁTTRO NA LIHESLATURAN GUÁHAN
(TWENTY-FOURTH GUAM LEGISLATURE)

Office of the Speaker

Senator **Antonio R. Unpingco**
Speaker

155 Hesler Street, Hagåtña, Guam 96910
Phones (671) **472- 3455 / 56 / 57** • Fax (671) **472-3400**
e-mail spkr12@kuentos.guam.net
Website of the Speaker
www.guam.net.gov/senate/spkr12

July 24, 1998

Mr. Richard N. Reback
Acting Inspector General
c/o US Department of Interior
Office of Inspector General
North Pacific Region
415 Chalan San Antonio
Baltej Pavilion, Suite 306
Tamuning, Guam 96911

RE: N-IN-GUA-004-97-A: Operational Funding Status, Department of Education, Government of Guam.

Dear Mr. Reback:

This letter serves as the official response of the 24th Guam Legislature in the matter of the draft audit report of the Operational Funding Status for the Department of Education.

In response to your office's recommendation, I am working with the Senator Mark Forbes and our Legislative Counsel, Attorney Douglas Moylan to make the appropriate changes to the 24th Guam Legislature's Standing Rules to accommodate the recommendations you have made for the remainder of our legislative term. Also, I will be discussing the recommendations with the Chairman of the Committee on Finance and Taxation, who has purview over appropriation measures. Those recommendations being making specific disposition of existing funds and providing a transition period to ensure the any transfer of funds is properly accounted for, that legal issues are resolved and that legislative intent is clarified.

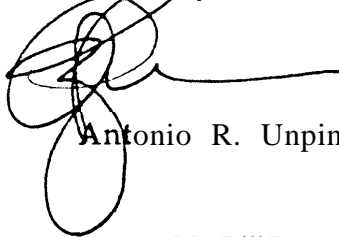
However, you should be aware that the Standing Rules of the Legislature are adopted by each legislature at the beginning of their respective terms. Accordingly, each legislature has the prerogative to change the Standing Rules, as they deem appropriate. Ultimately, this Legislature can not bind future

legislatures to the same Standing Rules. As a more permanent solution, we are researching whether enacting legislation, which would incorporate your recommendations, would be feasible.

I expect that we will resolve this matter no later than November 1, 1998. Senator Forbes will be the contact person who will oversee the implementation of the changes to the Standing Rules. Please know that the 24th Guam Legislature will work to ensure that the recommendations of your office are followed.

Thank you for the opportunity to address your concerns. Should you have any further questions, please do not hesitate in contacting me.

Sincerely,

A handwritten signature in black ink, appearing to be "Antonio R. Unpingco", written over a horizontal line.

Antonio R. Unpingco

cc: Mr. Bill Prowse
Senator Mark Forbes
Atty. Douglas, Moylan, Legislative Counsel



UFISINAN I MAGA'LAHI
TERITORION GUAM

JUL 23 1998

Mr. Robert J. William
Acting Inspector General
U.S. Department of the Interior
Office of the Inspector General
Pacific Field Office
415 Chalan San Antonio
Baltej Pavilion, Suite 306
Tamuning, Guam 96911

Dear Mr. William,

Enclosed is the Department of Administration's response and action plans regarding the Inspector General's Audit Report on "Operational Funding Status, Department of Education, Government of Guam (N-IN-GUA-004-97-A).

Should you have any questions, please call or write us.

Sincerely,


CARL TC GUTIERREZ
Governor of Guam



DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
DIRECTOR'S Off ICE
(UFISINAN DIREKTOT)
Post Office Box 884 • Agana, Guam 96932
Tel.: (671) 475-1101/1250 • Fax: (671) 477-6788

APPENDIX 4
Page 2 of 9

Carl T.C. Gutierrez
Governor
Madeleine Z. Bordallo
Lieutenant Governor

July 20, 1998

The Honorable Carl TC. Gutierrez
Governor of Guam
Ricardo J. Bordallo Complex
Agana, Guam 96910

Subject: Response to Draft Audit Report on Operational Funding Status,
Department of Education, Government of Guam (Assignment No. N-
IN-GUA-004-97-A)

Dear Governor Gutierrez:

Håfa Adai!

The Department of Administration provided the Office of Inspector General with a written response on the Preliminary Draft Audit Report on the Department of Education's Funding Status for the period April and May 1998. Please see the attached copy.

Below is DOA's response to each of the findings and recommendations, including specific reasons for any nonconcurrence. In addition, the responses also provide information on actions taken or planned, including target dates and titles of officials responsible for implementation.

Recommendation No. 1:

No action is needed from the Department of Administration as it relates to the Guam Legislature's Standing Rules Committee.

Recommendation No. 2:

DOA concurs with the recommendation number two. DOA will prepare written standard operating procedures for future closure of the various bank accounts. This task has been assigned to Mrs. Y'Asela Periera, Treasurer of Guam and will be completed within one month.

Letter to the Honorable **Carl T. C. Gutierrez**
Governor of Guam
Re: **Response to Draft Report on Operational Funding Status**
Department of Education, Government of Guam
(Assignment No. N-IN-GUA-004-97-A)
July 20, 1998
Page 2

Recommendation No. 3:

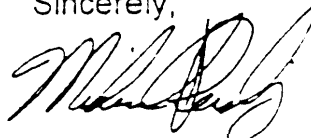
It is recommended that the Department of Education provide a formal request for the return of the unused balance of \$4M to both the Department of Administration and the Bureau of Budget and Management Research. However, the Draft Audit Report fails to confirm whether or not actual expenditures of \$4M was in fact incurred prior to the passage of Public Laws 24-17 and 24-34. Furthermore, the Draft Audit Report only references \$2.8M of actual expenditures incurred. Therefore, the amount of \$2.8M is the only amount reimbursable. The difference of \$1.2M (the unused balance of \$4M less the actual expenditures of \$2.8M) remains unexplained. In view of the above, a confirmation is warranted from the Office of the Inspector General to further clarify the exact dollar amount of reimbursements owed to DOE.

The Division of Accounts will remit the bank statements and enclosures for the \$1.6M to the Department of Education. These documents will provide information which will aid DOE's accounting records and bank ledgers. This task will be completed within one month by Mr. Ver Apilado, Acting Management Analyst IV of the Division of Accounts.

Should you have any questions concerning this report, do not hesitate to contact me at 475-1250.

Dangkolo na Si Yu'os Mar'ase.

Sincerely,



MICHAEL J. REIDY
Director

cc: USDOT-Inspector General
Acting Director, BBMR



DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON A TMENESTRASION)
DIRECTOR'S OFFICE
(UFISIN ANDIREKTO T)
Post Office Box 884 ■ Agaña, Guam 96932
Tel. (671) 475-1101/1250 ■ Fax: (671) 477-6788

CARL T. GUTIERREZ
Governor

MADELEINE Z. BORDALLO
Lieutenant Governor

May 22, 1998

Mr. Bill Prowse
U.S. Department of Interior
Office of the Inspector General
238 Archbishop F.C. Flores Street
Suite 807 PDN Building
Agana, Guam 96910

Dear Mr. Prowse:

Hafa Adai!

Following our meeting and after reviewing the preliminary draft report, the Department of Administration submits the following comments:

The passage of Public Laws 24-17 and 24-34 created the School Operations Fund earmarking 88% of gross receipt taxes to Department of Education. These laws were enacted without addressing the proper transition period.

Due to improper guidance, procedures were taken in accordance with each Department's interpretations of the law. The change of funding sources resulted in adjustments related to the appropriation accounts and the actual liability for checks signed by the Treasurer of Guam and issued prior to April 29, 1997.

During May 1997, the Department of Administration would have transferred the remaining bank balance to Department of Education as soon as a listing of all outstanding checks or accounts payables were forwarded with supporting vendor's invoices. Unfortunately, the Department of Administration has not received the above documents. As a result, the liquidity of \$1.2 Million remain in DOA's General Ledger as a payable to Department of Education. In addition, bank statements including canceled checks have been utilized by DOA to reconcile the General Fund Bank account for charges and other adjustments which were made. The bank statements and canceled checks remain with DOA and will be returned back to DOE.

Please be assured that the Department of Administration has done everything possible to reconcile this problem. The Department of Education received \$152.6 Million dollars during FY 1997. As a result, DOE has an excess of revenues less expenditures of \$2.2 Million. It appears that for the current year total expenditures were adequately funded and therefore the issue for adjustment in the appropriation level back in April 1997 is substantiated.

Letter **to** Mr. Bill Prowse, Office of the Inspector General
Ref.: Preliminary **Draft** Report
May 22, 1998
Page 2

DOA agrees that future legislation should include procedures for the proper accounting and legal ramifications for multiple funding sources and the transition period.

In addition, DOA agrees that the Treasurer of Guam prepare written procedures to ensure that affected agencies be involved with the proper closure procedures.

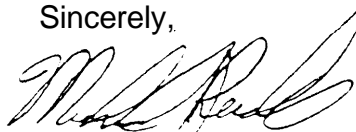
It is recommended that DOE provide a listing of outstanding checks remaining to date, invoices for payments, a schedule of accounts payable (during the period) and the request for direct payment.

DOA further recommends that the title in Appendix 2 be changed to "Summary of General Fund Appropriations with subsequent adjustments related to passage of Public Law 24-17 and Public Law 24-34".

in addition, the last row entitled "Summary of General Fund Appropriations ~~Not Available~~ to Education" be changed to "Summary of General Fund Appropriation adjusted per Public Law 24-17 and 24-34 to Education."

Dangkolo na Si Yurus Mase.

Sincerely,



MICHAEL J. REIDY
Director



GUAM BOARD OF EDUCATION
DEPARTMENT OF EDUCATION

P O. Box DE, Agaña, Gum 96932
Tel. (671) 734-4902/3 Fax (671) 734-4904

APPENDIX 5
Page 1 of 2



July 23, 1998

Mr. William Prowse
Department of the Interior
Office of the Inspector General
PDN Building
Hagatna, Guam 96932

Gloria B. Nelson
Chairperson

Celestin C. Babauta
Vice-Chairman

Judith P. Guthertz, Ph.D.
Public Information Officer

Members:
Mary A. Gutierrez
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Joan M. Wolf, Ed.D.
Renalda H. Zuberta

Ex-Officio Members:
Barbara Askey
Barbara Blas

Roland L.G. Talamangla
Executive Secretary

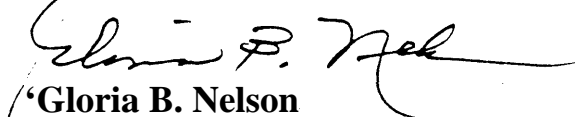
**Re: Response to Draft Audit Report on Operational Funding Status,
Department of Education, Government of Guam (Assignment
No. N-IN-GUA-004-97-A)**

Dear Mr. Prowse:

The Guam Board of Education concurs with the Director of Education's response dated May 15, 1998 in reference to the above audit report.

Please see the attached document.

Sincerely,


Gloria B. Nelson
Board Chairperson

CC: Director of Education
Members, Board of Education

Our Educational Community:
Prepares Students for life *Promotes excellence* *Pro vides support*



DEPARTMENT OF EDUCATION

P.O. Box DE
Agana, Guam 96932
Tel: (671) 4754457
Fax: (671) 472-5003



Page 2 of 2

Roland L G. Taimanglo
Director of Education

A Line A. Yamashita, Ph. D
Deputy Director of Education

MAY 13 1996

Mr. William Prowse
Department of the Interior
Office of the Inspector General
PDN Bldg. Hagatna, GU 96915

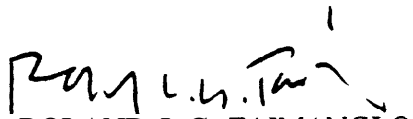
Subject: Response to Draft Audit

Dear Mr. Prowse:

Thank you for allowing the Department the opportunity to respond to the draft audit. After further review of the audit, and discussion with Department personnel, we concur with the general content of the audit. There are, however, references in the audit to statements made by the Department of Administration, DOA, Controller that we feel are not entirely accurate.

On page 9, under Interagency Cooperation, there is a reference to the Department not adequately coordinating financial information. We have enclosed, for your review, a copy of a letter transmitted to the DOA on May 29, 1997. Attached to that original letter were listings of outstanding payables and encumbrances as of April 1997. Based on that transmittal, we feel that the Department made an attempt to cooperate with the transition. Furthermore, we feel that the statements made in that same paragraph, relative to a lack of financial information, need to be revisited.

Aside from the above, the Department has no further concerns with the content of the draft audit. Please keep us apprised of any amendments by contacting the Department's Comptroller at 4750420.


-ROLAND L.G. TAIMANGLO
DIRECTOR OF EDUCATION

enclosure

COMMONWEALTH NOW!





DEPARTMENT OF EDUCATION

P.O. Box DE
Agana, Guam 96932
Tel: (671) 475-0457
Fax: (671) 472-5003

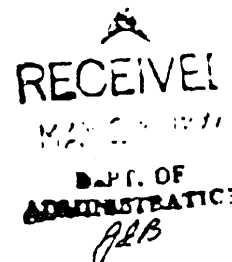


Roland L.G. Taimanglo
Director of Education

Aline A. Yamashita, Ph.D
Deputy Director of Education

May 29, 1997

Ms. Rebecca T. Quintanilla
Acting Director
Department of Administration
P.O. Box 884,
Agana, Guam 96932



Dear Ms. Quintanilla:

In response to your April 30, 1997 letter, the Department of Education is providing the following information:

- 1 The Department of Education has established new accounts and authorized new signatories.
2. The check **from the School** Operation Fund should be made payable to the Department of Education. The check is to be deposited into our Revenue Account at the Bank of Guam, account number 0101-0248373.
3. The Department of Education is unable to identify the composition of the remaining balances of the operations and payroll funds as we were not provided with the balances of these accounts as of April 28, 1997.
- 4 We are providing you with copies of the April outstanding check listing. The listing was produced based on a magnetic tape of checks cleared by the bank. In addition to the check listing, we are providing lists of outstanding payables and outstanding encumbrances as of April 1997. These listings are provided as such were encumbered against the April cash balances in accordance with the memorandum received from the Bureau of Budget and Management Research, dated November 12, 1996 (a copy of which is enclosed). The memorandum states that the Department of Education is to process requisitions (encumber funds) against actual cash and not allotment allocation. Therefore, the Department of Education feels that the outstanding liabilities and encumbrances should be funded through the remaining balances of the operations account prior to the April 28, 1997 closing. We are also providing a listing of all deposits made for the month of April. Because we have not been provided with the bank statements, we are unable to identify the deposits that were outstanding as of April 28, 1997.

We trust that the information provided is sufficient for the purposes of implementing the law. Should you require further information, please call either Mr. Eloy Lizama or Mr. Scott Moylan at 475-0418.

Sincerely,

ROLAND L.G. TAIMANGLO
Director of Education

COMMONWEALTH NOW!



STATUS OF AUDIT REPORT RECOMMENDATIONS

Finding/Recommendation Reference	Status	Action Required
1	Resolved; not implemented	The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation. However, when the amendment to the Standing Rules of the Legislature is adopted or legislation is enacted, 3 copy should be provided to our office.
	Resolved; not implemented	The recommendation will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation. However, when the written procedures implemented by the Department of Administration have been completed, a copy of the procedures should be provided to our office.
	Unresolved.	Reconsider the recommendation, and provide 3 response indicating concurrence or nonconcurrence. If concurrence is indicated, an action plan should be provided that includes the target date and title of the official responsible for making a formal request to the Department of Administration and the Bureau of Budget and Management Research for the return of \$4 million transferred from Education's bank accounts, an accounting of the \$1.6 million used to pay Education expenses, and the records for transactions in Education's bank accounts during April and May 1997.

**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO
THE OFFICE OF INSPECTOR GENERAL BY:**

Sending written documents to:

Calling:

Within the Continental United States

U.S. Department of the Interior
Office of Inspector General
1849 C Street, N.W.
Mail Stop 5341
Washington, D .C. 20240

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(202) 208-5300

TDD for hearing impaired
(202) 208-2420 or
1-800-354-0996

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Caribbean Region

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Office of Inspector General
Eastern Division - Investigations
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Arlington, Virginia 22201

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North Pacific Region

U.S. Department of the Interior
Office of Inspector General
North Pacific Region
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Tamuning, Guam 96911

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